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## Memorandum

To: Workers' Compensation Adjusters

From: J. Stephen Monahan Director

Date: Monday, February 06, 2006

Subject: Insurers may again file Extension Requests complying with Workers'

Compensation Rule 3.0900

In November the Division stopped granting extension requests authorized by Workers Compensation Rule 3.0900 because of a concern about its continuing authority to grant such requests. The Legislature, responding to complaints of untimely claims denials and delay in receipt of benefits, had amended the statute to establish when benefits were due and to impose penalties on those insurers who failed to make timely payments of benefits. Some questioned whether or not the Legislature intended to remove the discretion to grant extensions entirely. A legal opinion was obtained from the Vermont's Attorney General's Office. That opinion concluded that the division retained authority to grant extension requests that complied with the rule. Therefore the Division will again accept requests for extension.

Recognizing the Legislature's goal of more timely decisions and payments, and the fact that most insurers were able to either accept or issue a supported denial within 21 days, the division expects fewer extension requests.

## **Implementation**

Workers Compensation Rule 3.0900 provides:

The employer shall have 21 days from receiving notice or knowledge of an injury within which to determine whether any compensation is due. If it determines that no compensation is due, it shall, within 21 days of notice or knowledge of the injury, notify the commissioner and the claimant in writing of its denial and the reasons therefore. The denial shall be accompanied by copies of all relevant documentation, medical or otherwise, relied upon to support the denial. If, despite good faith efforts,

the employer/carrier cannot render a decision within the 21day time limit the employer/carrier must request, in writing to the commissioner, an extension of the 21day limit. This extension must be specific as to the number of days needed and the reason for the delay and must be received by the commissioner prior to the end of the 21 day limit. A copy of the request for an extension must be provided to the claimant at the time the request is provided to the commissioner.

Staff are instructed to implement this rule as follows:

- 1) The extension request must be in writing and <u>received</u> by the division prior to the expiration of the 21 day period. Requests filed late shall be denied.
- 2) The request must be accompanied by documentation demonstrating that the insurer has made "good faith" efforts to investigate the claim. Failure to provide such documentation shall result in a denial of the request.
- 3) "Good faith" efforts shall mean that the insurer took timely, diligent action to investigate the claim, but due to reasons outside its control, was unable to obtain necessary information. Specialist I's shall scrutinize the documentation to ensure that it supports the request.
- 4) Specialists shall act on requests within 5 business days of receipt. If an insurer has not received notice that its request has been approved within that time, it shall assume the request has been denied, and shall either accept the claim, deny the claim in accord with the Rule, or notify the claimant and the department that it is advancing payment without prejudice.
- 5) Any extension request approved shall not exceed an additional 21 days.